

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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OCT 10 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Revision of the Commission's)
Rules To Ensure Compatibility)
with Enhanced 911 Emergency)
Calling Systems)

CC Docket No. 94-102

OPPOSITION TO PETITION FOR RECONSIDERATION

Pursuant to the Commission's Public Notice released September 29, 2000,^{1/} AT&T Wireless Services, Inc. ("AT&T") hereby submits its opposition to the petition for reconsideration filed by the Association of Public-Safety Communications Officials-International, Inc. ("APCO") in the above-captioned proceeding.^{2/} APCO objects to the conditional waiver granted to VoiceStream Wireless ("VoiceStream"), which permits VoiceStream to deploy a hybrid E911 Phase II location solution using Network Software Solution (NSS), combined with Enhanced Observed Time Difference of Arrival (E-OTD) technology.^{3/} Contrary to APCO's assertion that the VoiceStream waiver could undermine the Commission's progress in promoting 911 solutions, a waiver in this circumstance would significantly benefit the public interest. The Commission should be commended for taking this flexible approach.

^{1/} See Public Notice, WTB Seeks Comment on Petition for Reconsideration of VoiceStream Waiver Filed by APCO, CC Docket No. 94-102 (rel. September 29, 2000).

^{2/} Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Fourth Memorandum Opinion and Order, FCC 00-326 (rel. Sept. 8, 2000) ("Fourth MO&O").

^{3/} APCO Petition for Reconsideration of VoiceStream Waiver, CC Docket No. 94-102 (filed Sept. 20, 2000) ("APCO Petition").

There is no basis for APCO's contention that the Commission should not have considered the VoiceStream waiver request without providing the opportunity for notice and comment.^{4/} VoiceStream's waiver request has been a matter of public knowledge for some time, and parties have had ample opportunity to make their views known. Indeed, APCO itself, as well as its promoter in this proceeding, QUALCOMM,^{5/} have contacted Commission staff on several occasions to address VoiceStream's request and have filed ex parte letters setting forth their concerns.^{6/} These ex parte notifications have also been available for public comment. Moreover, the NSS and E-OTD solutions VoiceStream plans to use are well known to carriers, vendors, and the 911 agencies. Therefore, it is not clear what would have been gained by issuing another public notice, except more delay to give self-interested vendors the opportunity to extol the merits of their own systems.

In any event, the Commission's rules may be waived when there is good cause shown and when "special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest."^{7/} The grant of VoiceStream's waiver clearly is one of those special circumstances. The Commission correctly recognized that VoiceStream, whose network uses the GSM air interface, faces unusual hurdles and that the NSS/E-OTD solution may be one of the only ALI solutions available in the near future for GSM systems.^{8/} In addition, as the

^{4/} APCO Petition at 4.

^{5/} See Comments of QUALCOMM Incorporated in Support of Petition for Reconsideration of VoiceStream Waiver, CC Docket No. 94-102 (filed Sept. 29, 2000) ("QUALCOMM Comments").

^{6/} See APCO September 8, 2000 Ex Parte Comments; QUALCOMM September 7, 2000 Ex Parte Comments; QUALCOMM September 1, 2000 Ex Parte Comments; QUALCOMM August 22, 2000 Ex Parte Comments; QUALCOMM July 27, 2000 Ex Parte Comments.

^{7/} Fourth MO&O at ¶ 43.

^{8/} Id. at ¶ 56.

Commission states, the commitments made by VoiceStream regarding speed to market and location performance demonstrate that there are important public safety benefits to be gained through grant of the waiver.^{9/}

APCO's allegation that the VoiceStream waiver has "the appearance of rewarding non-compliance" is simply incorrect.^{10/} Rather, it demonstrates that the Commission has the foresight to permit carriers to explore creative solutions that will benefit wireless consumers. The Commission has imposed conditions on VoiceStream to ensure that the public safety is not at risk and that consumers will actually realize the benefits of Phase II service much earlier than they otherwise would. Pursuant to the waiver, VoiceStream must implement NSS throughout its network by the fourth quarter of 2001, regardless of whether a PSAP request has been received for Phase II service.^{11/} NSS will provide significantly better accuracy results than are currently achieved under Phase I requirements.^{12/} Moreover, by October 1, 2001, 50 percent of VoiceStream's handsets will be E-OTD capable, and will be required to meet accuracy levels equal to the Phase II network-based standard, which is a marked improvement over Phase I accuracy.^{13/} By March 31, 2002, all of VoiceStream's handsets will be E-OTD capable, and, within two years, VoiceStream has committed to meet the accuracy requirement for handset-based solutions.^{14/} Therefore, under the waiver, many more consumers will have access to Phase

^{9/} Id. at ¶ 57.

^{10/} APCO Petition at 5.

^{11/} Fourth MO&O at ¶ 57.

^{12/} Id.

^{13/} Id. at ¶¶ 59, 62.

^{14/} Because E-OTD only requires simple software adjustments to handsets and some network equipment, costly network rebuilding will not be necessary. In addition, the accuracy for both NSS and E-OTD technologies are projected to improve as the software is refined, and as additional cell sites are added to serve increasing traffic.

II service earlier than would be the case with GPS-enabled handsets (which are not ready in volume), or network-based solutions (which will need additional antennas, zoning approvals, and possible tower alterations). Given these circumstances, the Commission would be foolish not to allow VoiceStream, or any other carrier for that matter, to pursue this or another equally innovative solution aimed at ensuring that consumers have access to Phase II location service in the most expeditious and efficient manner possible.

APCO and QUALCOMM complain that there has been insufficient testing of VoiceStream's location solution in optimal situations.^{15/} The truth is that none of the Phase II solutions have been sufficiently tested in the real world. Despite all the hyperbole that has been showered on the Commission by vendors, it has become abundantly clear that no solution can live up to the promises. Regardless, the Commission's waiver has addressed APCO's and QUALCOMM's concerns. To the extent that VoiceStream's location solution cannot comply with the accuracy and timing conditions imposed by the Commission during the limited waiver, VoiceStream will be required to adopt a different ALI methodology that meets the Commission's requirements.^{16/}

For its part, QUALCOMM's argument that the Commission should not have granted VoiceStream's waiver request reveals QUALCOMM's true objective. There is no doubt that QUALCOMM would prefer for wireless carriers to use the wireless assisted GPS technology offered by its affiliate, SnapTrak. QUALCOMM's touted system, however, is not yet ready for deployment and may not be for some time. Therefore, to protect its own investment, QUALCOMM wants to force carriers to implement solutions that will slow the pace of Phase II

^{15/} APCO Petition at 5-7; QUALCOMM Comments at 5-6.

^{16/} Fourth MO&O at ¶ 68.

implementation, such as network-overlay systems that require extensive and complex modifications to mobile networks.^{17/} Condoning QUALCOMM's agenda would be contrary to the Commission's assertions that it intends to be technology neutral when it makes E-911 Phase II decisions.^{18/} More importantly, it would wholly eviscerate the public safety goals the Commission's mandate is supposed to promote.^{19/}

^{17/} The network-overlay solutions generally require significant and expensive infrastructure alterations, including the installation of one or more four-foot by four-foot panel antennas at many cell sites. AT&T has found that, even in temporary testing situations, it is often impossible to get zoning approval to mount these antennas. In real world use, overcoming the zoning hurdles could well prove to be impossible.

^{18/} See Fourth MO&O at ¶ 40.

^{19/} There is no basis for QUALCOMM's allegation that the Commission lacks legal authority to grant a waiver to VoiceStream. See QUALCOMM Comments at 7-9. Contrary to QUALCOMM's assertion, VoiceStream adequately demonstrated that it faces unique circumstances in deploying a Phase II solution and that permitting it to implement a hybrid network/handset system would result in significant benefits to the public safety. QUALCOMM's bald assertion that there are other potential solutions suitable for GSM carriers does not undermine the Commission's determination that, given VoiceStream's showing, deviation from its rules was wholly justified.

CONCLUSION

AT&T applauds the Commission for permitting VoiceStream to pursue a creative Phase II solution that promises significant benefits over any other system currently available or proposed, especially in terms of time to market. The Commission was fully justified in granting a waiver of the wireless E-911 rules to VoiceStream and, therefore, it should deny APCO's petition.

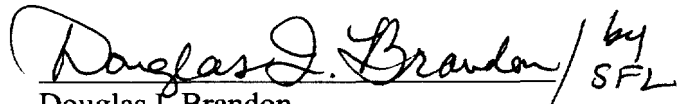
Respectfully submitted,

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I, Andrea Willis, hereby certify that on this 10th day of October 2000, I caused copies of the foregoing "Comments of AT&T Corp." to be sent to the following by either first class mail, postage prepaid, or by hand delivery (*):

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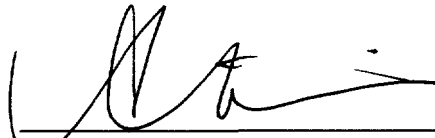
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